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8
9 **BEFORE THE**
BOARD OF REGISTERED NURSING
10 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA

11
12 In the Matter of the Accusation Against:

Case No. 2013-769

13 **CINDY GADIRA RIOS AKA CINDY**
GADIRA GONZALES
14 **832 Jana Lane**
San Jose, CA 95111

ACCUSATION

15 **Registered Nurse License No. 739825**

16 Respondent.

17
18 Complainant alleges:

19 **PARTIES**

20 1. Louise R. Bailey, M.Ed., RN (Complainant) brings this Accusation solely in her
21 official capacity as the Executive Officer of the Board of Registered Nursing, Department of
22 Consumer Affairs.

23 2. On or about November 13, 2008, the Board of Registered Nursing issued Registered
24 Nurse License Number 739825 to Cindy Gadira Rios aka Cindy Gadira Gonzales (Respondent).
25 The Registered Nurse License was in full force and effect at all times relevant to the charges
26 brought in this Accusation and will expire on June 30, 2014, unless renewed.

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1 9. California Code of Regulations, title 16, section 1443.5 states:

2 "A registered nurse shall be considered to be competent when he/she consistently
3 demonstrates the ability to transfer scientific knowledge from social, biological and physical
4 sciences in applying the nursing process, as follows:

5 "(1) Formulates a nursing diagnosis through observation of the client's physical condition
6 and behavior, and through interpretation of information obtained from the client and others,
7 including the health team.

8 "(2) Formulates a care plan, in collaboration with the client, which ensures that direct and
9 indirect nursing care services provide for the client's safety, comfort, hygiene, and protection, and
10 for disease prevention and restorative measures.

11 "(3) Performs skills essential to the kind of nursing action to be taken, explains the health
12 treatment to the client and family and teaches the client and family how to care for the client's
13 health needs.

14 "(4) Delegates tasks to subordinates based on the legal scopes of practice of the
15 subordinates and on the preparation and capability needed in the tasks to be delegated, and
16 effectively supervises nursing care being given by subordinates.

17 "(5) Evaluates the effectiveness of the care plan through observation of the client's physical
18 condition and behavior, signs and symptoms of illness, and reactions to treatment and through
19 communication with the client and health team members, and modifies the plan as needed.

20 "(6) Acts as the client's advocate, as circumstances require, by initiating action to improve
21 health care or to change decisions or activities which are against the interests or wishes of the
22 client, and by giving the client the opportunity to make informed decisions about health care
23 before it is provided."

24 10. California Code of Regulations, title 16, section 1442, states:

25 "As used in Section 2761 of the code, 'gross negligence' includes an extreme departure from
26 the standard of care which, under similar circumstances, would have ordinarily been exercised by
27 a competent registered nurse. Such an extreme departure means the repeated failure to provide
28 nursing care as required or failure to provide care or to exercise ordinary precaution in a single

1 situation which the nurse knew, or should have known, could have jeopardized the client's health
2 or life."

3 COST RECOVERY

4 11. Section 125.3 provides, in relevant part:

5 "(a) Except as otherwise provided by law, in any order issued in resolution of a disciplinary
6 proceeding before any board within the department . . . , upon request of the entity bringing the
7 proceedings, the administrative law judge may direct a licentiate found to have committed a
8 violation or violations of the licensing act to pay a sum not to exceed the reasonable costs of the
9 investigation and enforcement of the case.

10 . . .

11 "(i) Nothing in this section shall preclude a board from including the recovery of the costs
12 of investigation and enforcement of a case in any stipulated settlement."

13 **FIRST CAUSE FOR DISCIPLINE** 14 **(Unprofessional Conduct-Incompetence)** **(Business and Professions Code Sec. 2761, subd. (a)(1))**

15 12. Respondent has subjected her nursing license to discipline for unprofessional conduct
16 under Code section 2761, subdivision (a), as defined by Code section 2761, subdivision (a)(1)
17 (incompetence, or gross negligence in carrying out usual certified or licensed nursing functions)
18 in that she failed to properly follow mandated reporting protocols for suspected child abuse after
19 examining a child while working as a registered nurse at the Gardner Family Health Network
20 (GFHN) in San Jose, California. The circumstances are as follows:

21 13. On or about March 17, 2010, Respondent examined Patient RM,¹ a three year old girl.
22 Patient RM's mother explained to Respondent that Patient RM had told her that someone was
23 hurting her. According to the screening and triage form completed by Respondent, Patient RM
24 complained of buttocks pain, had mild vaginal discharge, and a small red spot on her left inner
25 labia. The screening and triage form further notes that during the examination, Patient PM was
26 protective of her vaginal area and stated that her uncle hurt her with a spoon. The screening and

27 ¹ RM is used throughout this Accusation to refer to the patient examined on March 17,
28 2010. The patient's name is omitted to maintain her confidentiality.

1 triage form indicates that Patient RM's mother "state[d] she doesn't think anything has happened
2 to the child." Despite her examination and findings, Respondent failed to report the incident to
3 management staff at the GFHN, to Child Protective Services, or to any other government agency.

4 14. Respondent failed to follow the policies and procedures of GFHN regarding child
5 abuse reporting and/or child sexual abuse reporting when she failed to report the incident to
6 management at GFHN or to Child Protective Services. Further, Respondent's failure to report the
7 incident was a failure to exercise the degree of learning, skill, care and experience ordinarily
8 possessed and exercised by a competent registered nurse.

9 **SECOND CAUSE FOR DISCIPLINE**
10 **(Unprofessional Conduct-Gross Negligence)**
11 **(Business and Professions Code Sec. 2761, subd. (a)(1))**

12 15. Respondent has subjected her nursing license to discipline for unprofessional conduct
13 under Code section 2761, subdivision (a), as defined by Code section 2761, subdivision
14 (a)(1)(incompetence, or gross negligence in carrying out usual certified or licensed nursing
15 functions) in that she acted with gross negligence when she failed to properly follow mandated
16 reporting protocols for suspected child abuse after examining a child while working as a
17 registered nurse at the Gardner Family Health Network (GFHN) in San Jose, California. The
18 circumstances are explained in paragraph 13, above.

19 PRAYER

20 WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this
21 Accusation, and that following the hearing, the Board of Registered Nursing issue a decision:

22 1. Revoking or suspending Registered Nurse License Number 739825, issued to Cindy
23 Gadira Rios aka Cindy Gadira Gonzales;

24 2. Ordering Cindy Gadira Rios aka Cindy Gadira Gonzales to pay the Board of
25 Registered Nursing the reasonable costs of the investigation and enforcement of this case,
26 pursuant to Business and Professions Code section 125.3;

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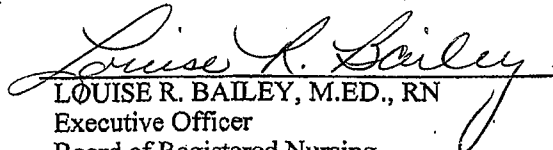
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3. Taking such other and further action as deemed necessary and proper.

DATED: MARCH 14, 2013


LOUISE R. BAILEY, M.ED., RN
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California
Complainant

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